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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,640	01/12/2000	DAVID ELLIOTT WHITTEN	HEM-98/644(H)	5923

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EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/481,640

Applicant(s)

WHITTEN ET AL.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1,5,9 and 11 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/6/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The amendment filed on September 18, 2002 has been entered. The indicated allowability of claim 11 is withdrawn in view of the newly discovered reference(s) to Neal et al., pn 3,477,709. Because the new grounds of rejection were not necessitated by applicant's amendment, the finality of the Office action mailed June 18, 2002 (paper no. 10) has been withdrawn, and this Office action is being made **non-final**. Rejections based on the newly cited reference(s) follow.

### *Claim Objections*

2. Claims 1-3, 5, 7 and 9-11 are objected to because of the following informalities:

In general, the adjustable diameter portion is disclosed as part of the transfer cylinder, and it seems that it should be claimed as such. Therefore, it is suggested to make the following changes:

In claim 1, line 3, insert --and-- after the semi-colon “;”;

line 7, delete “and including”;

line 9, change the semi-colon “;” to a comma --,--.

In claim 9, line 3, insert --and-- after the semi-colon “;”;

line 8, delete “and including”;

line 10, change the semi-colon “;” to a comma --,--.

In claim 10, line 2, insert --and-- after the semi-colon “;”;

line 5, insert a comma --,-- after “axis”;

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line 6, delete the first occurrence of "and", and change the semi-colon ";" to a comma --,--.

In claim 11, line 2, insert --and-- after the semi-colon ";";

line 5, insert a comma --,-- after "axis";

line 6, delete the first occurrence of "and", and change the semi-colon ";" to a comma --,--;

line 7, change the semi-colon ";" to a comma --,--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 7, the recitation "a linear jack and an eccentric jack" renders the claim vague and indefinite as to what is being set forth, and it seems that --one of-- should be inserted before "a linear", and in lines 9-10, "linear jack and said eccentric" should be deleted or the like; in line 11, "and moving" is vague and indefinite as to what it refers, and it is suggested to change " , and moving" to --to move-- or the like.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Halliwell, pn 1,499,106.

Halliwell discloses a cutting device with every structural limitation of the claimed invention including a rotary cutter (e.g., 7); and a transfer cylinder (e.g., 5) having a gripper (e.g., 14, 15, 16) and a tucking blade (e.g., 12) disposed in the circumferential region, and an adjustable diameter portion (e.g., 19, 20, 31, 32). It is noted that while the adjustable diameter portions of Halliwell may not be selectively adjustable, they are considered to be adjustable.

6. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Neal et al., pn 3,477,709.

Neal discloses a cutting device with every structural limitation of the claimed invention including a rotary cutter (e.g., 3); and a transfer cylinder (e.g., 2) having a circumferential region; one of a linear and eccentric jack (e.g. 17, 22), and an adjustable diameter portion (e.g., 11) disposed in the circumferential region of the transfer cylinder.

***Allowable Subject Matter***

7. Claim 10 is allowable over the prior art of record.
8. Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can be reached Monday, Tuesday, Thursday and Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571)272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**